

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

Attorney General Jim Hood, *ex rel.*
State of Mississippi,

Plaintiff,

v.

Case No.: 3:11-cv-00343-HTW-LRA

The McGraw-Hill Companies, Inc.,
Standard & Poor's Financial Services, LLC,
Moody's Corporation and Moody's Investors
Service, Inc.,

Defendants.

**STATE OF MISSISSIPPI'S RESPONSE TO
S&P'S MARCH 21, 2013 MOTION TO STAY**

COMES NOW, Plaintiff, Attorney General Jim Hood, *ex rel.* State of Mississippi ("State" or "Mississippi") and requests that this Court deny defendants The McGraw-Hill Companies, Inc. and Standard & Poor's Financial Services LLC's (collectively, "S&P") March 21, 2013 motion to stay proceedings ("Motion to Stay All Proceedings") in connection with Mississippi's 2011 and 2013 remand motions. S&P's Motion to Stay All Proceedings asks this Court to hold in abeyance all proceedings in this case until the Judicial Panel on Multidistrict Litigation ("Judicial Panel") renders a decision on S&P's motion to transfer and consolidate this case into a multidistrict litigation ("MDL") that would be comprised of multiple state attorney general actions to enforce state consumer protection laws. S&P has, *de facto*, attempted to grant this stay to itself by failing to file a timely response to Mississippi's 2013 motion to remand on April 3, 2013. S&P's conduct improperly and prejudicially delays adjudication of Mississippi's pending 2011 and 2013 motions to remand.

This Court, as well as other courts in the Southern District of Mississippi, have routinely denied requests to stay remand proceedings. The Court should not consider S&P's request for a stay unless and until the Court determines that there is federal jurisdiction over this case. Where courts in this District have not first disposed of a motion to remand challenging jurisdiction, they have made it clear that a stay should only be considered in "exceptional" circumstances that do not exist here. First, Mississippi's case presents a number of issues that are not common to the other attorney general cases that S&P also seeks to transfer: Mississippi's case is the only one of the removed 17 attorney general actions where there is an additional and pending remand motion (and remand-related discovery request) which pertains to removal under CAFA and on diversity grounds and implicates a different defendant (Moody's), and Mississippi's 2013 remand motion involves timeliness and procedural arguments that are not common to 14 of the 16 other attorney general actions. It would be both appropriate and judicially efficient for this Court to resolve the 2011 remand motion together with the 2013 remand motion, and to do so prior to the Judicial Panel's consideration of the transfer motion.

Second, even if the only remand issue in Mississippi's case were the one common to all the states (the merits of S&P's newly-asserted argument for federal question jurisdiction), a stay pending transfer still would not promote the interests of judicial economy and consistency because S&P's 2013 Supplemental Notice of Removal is facially deficient and can easily and quickly be disposed of by this Court.

Finally, S&P's motion should also be denied because S&P will suffer no hardship in the absence of a stay, but Mississippi would suffer prejudice if a stay were to be granted.

For these reasons, Mississippi respectfully requests that this Court deny S&P's Motion to Stay All Proceedings and rule at its earliest convenience on S&P and Moody's fully-briefed

request for remand-related discovery, set a schedule to complete briefing on Mississippi's 2011 motion to remand, grant Mississippi's 2013 motion to remand as unopposed or order S&P to immediately file its response thereto, and, ultimately, remand this matter to the Chancery Court of the First Judicial District of Hinds County, Mississippi.

Respectfully submitted this the 4th day of April, 2013.

Plaintiff, State of Mississippi, *ex rel.* Jim Hood,
Attorney General

By: /s/ George Neville
George W. Neville (MBN 3822)
Geoffrey Morgan (MBN 3474)
Special Assistant Attorneys General
Office of the Mississippi Attorney General
Post Office Box 220
Jackson, Mississippi 39205
Phone/Fax: (601) 359-3680/(601) 359-2003
Email: gnevi@ago.state.ms.us, gmorg@ago.state.ms.us

Blake A. Tyler (MBN 101786)
511 East Pearl Street
Jackson, Mississippi 39201
Phone/Fax: (601) 949-5000/(601) 510-9089
Email: btyler@pgtlaw.com

Vatteria Martin (MBN 101235)
5709 Highway 80 West
Jackson, Mississippi 39209
Phone/Fax: (601) 923-1577/(601) 923-1579
Email: vmartin@4martinsatlaw.com

Betsy Miller
Cohen Milstein Sellers & Toll PLLC
1100 New York Avenue, N.W.
Suite 500, West Tower
Washington, D.C. 20005
Phone/Fax: (202) 408-4600/(202) 408-4699
Email: bmiller@cohenmilstein.com

Counsel for the State of Mississippi

CERTIFICATE OF SERVICE

I, Betsy Miller, do hereby certify that I have this day delivered a true and correct copy of the foregoing Response via the Court's electronic filing system, to the following:

Fred Krutz
J. Chase Bryan
Mandie B. Robinson
FORMAN PERRY WATKINS
KRUTZ & TARDY LLP
200 South Lamar Street, Suite 100
Jackson, Mississippi 39201-4099
fred@fpwk.com
jcbryan@fpwk.com
robinsonab@fpwk.com

C. Michael Ellingburg
Daniel Coker Horton & Bell, P.A.
4400 Old Canton Road
Suite 400
Post Office Box 1084
Jackson, MS 39215-1084
mellingburg@danielcoker.com

Floyd Abrams
S. Penny Windle
Whitney M. Smith
CAHILL GORDON &
REINDEL LLP
Eighty Pine Street
New York, New York 10005-1702
fabrams@cahill.com
mmcloughlin@cahill.com
pwindle@cahill.com
wsmith@cahill.com

Joshua M. Rubins
James J. Coster
Glenn C. Edwards
SATTERLEE STEPHENS
BURKE & BURKE LLP
230 Park Avenue, 11th Floor
New York, New York 10169
jrubins@ssbb.com
jcoster@ssbb.com

*Counsel for The McGraw-Hill
Companies, Inc. and Standard &
Poor's Financial Services LLC*

*Attorneys for Moody's Corporation
and Moody's Investors Service, Inc.*

So Certified, this the 4th day of April, 2013.

/s/ Betsy Miller _____
Betsy Miller